

# Newton New Hampshire Site Plan Regulations

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**SECTION I - AUTHORITY**

Under the authority vested in the Newton Planning Board by Town Meeting vote in March of 1981, and in accordance with current New Hampshire State Law, including, but not limited to, Chapters 672 through 677 (as amended), particularly sections 674:43 and 674:44 of the Revised Statutes Annotated (RSA) of the State of New Hampshire, the Newton Planning Board, herein after referred to as "Board", adopts the following Regulations governing the Review of Site Plans for developments involving land within the Town of Newton, New Hampshire. These regulations repeal and replace all previously adopted Site Plan Review regulations.

**SECTION II - TITLE**

These regulations shall be known, and may be cited as, the Town of Newton Site Plan Review Regulations, hereinafter referred to as Site Plan Review Regulations or Regulations. The current set of Regulations revise and replace any prior Site Plan Review Regulations, as amended, and take effect upon adoption by the Board, and filing with the Town Clerk of the Town of Newton, in accordance with RSA 675:6. A copy shall also be filed with the New Hampshire (NH) Office of Energy and Planning (OEP) in accordance with RSA 675:9.

**SECTION III - PURPOSE AND INTENT**

Consistent with the enabling legislation cited above, the purpose of these Regulations is to ensure that non-residential developments are consistent with the enumerated purposes of RSA 674:44, which are incorporated by reference herein, and that all development shall be consistent with the following purposes:

- 3.1 Development shall be harmonious with the Town and its environs;
- 3.2 Developments shall be provided with adequate services and utilities;
- 3.3 Development shall have safe and convenient traffic flows both on and off the site;
- 3.4 Developments shall not necessitate an excessive expenditure of public funds for the supply of such services;
- 3.5 Suitably located streets shall be required of sufficient width to accommodate existing and prospective traffic and to afford adequate light, air, and access for firefighting apparatus and equipment to buildings, and be coordinated so as to compose a convenient system;
- 3.6 Development shall promote the public's health, safety, welfare and convenience.
- 3.7 Provision of open spaces and green spaces of adequate proportion.

**SECTION IV - JURISDICTION**

These provisions shall govern all development within the Town of Newton as described here in. The Board shall require the submission of site plans, prior to the beginning of any construction, land clearing, or building development by all applicants seeking approval for any of the following:

- 4.1 The construction of any new non-residential use.
- 4.2 The enlargement of any existing use which occasions development of the site. Development of the site includes, but is not limited to, structures, paving, excavation in preparation of building, and land clearing.

- 4.3 The change within a structure from one permitted use to another use which will occasion development of the site including, but not limited to improvement or alteration to the site required by virtue of any other town or state ordinance, statute, or regulation.
- 4.4 A change in use or expansion of use which involves impacts in terms of, but not limited to, traffic, circulation, parking, lighting, or any other aspect which may reasonably be foreseen to impact the health, safety, convenience, or prosperity of the citizens of Newton and the region.
- 4.5 In certain circumstances under Section 9 of the Policies and Procedures Manual and the requirements found therein, the applicant may be eligible for a Minor Site Plan Review.
- 4.6 These site review regulations shall also apply to any new construction or expansion of use that results in greater than four (4) residential units on a lot and occasions development of the site, as described under paragraph 4.2.

In all cases, no building permit shall be issued by the building inspector for the construction of any building subject to these regulations, until final approval is granted by the Board, and no certificate of occupancy shall be issued until the terms and conditions of the Board's approval have been fulfilled.

## **SECTION V - DEFINITIONS**

Abutter: abutter shall mean any person whose property is located in New Hampshire adjoins, or is directly across a street or stream from, the land under consideration by the Board. For purposes of receiving testimony only and not for purposes of notification, the term "abutter" shall include any person who is able to demonstrate that his/her land will be directly affected by the proposal under consideration. For purposes of receipt of notification by the Town of a Board hearing, in the case of an abutting property being under condominium or other collective ownership, the term abutter shall mean the officers of the collective or association, as defined in RSA 356-B:3, XXIII, and any amendments thereto.

Amended site plan: this term shall refer to any change to an existing site plan which the Board has not reviewed.

Applicant: applicant shall mean the owner of record of the land which is proposed to be developed in a nonresidential manner, including any subsequent owner of record who proposes such development, or the duly authorized agent of any such owner.

Board: shall mean the Planning Board of the Town of Newton, New Hampshire as established under the provisions of RSA 673:2, as amended.

Certified soil scientist: a person qualified in soil classification and mapping who is certified by the State of New Hampshire.

Completed application: this term refers to the application form with all information completed as requested on the form (with the exception of requested waivers from applicable regulations), all attachments, drawings, approvals and other paperwork as requested in the form or elsewhere in these regulations, and all fees and administrative expenses as indicated in these regulations. The information provided shall provide sufficient information to allow the Board to proceed with consideration and to make an informed decision.

Development: this term shall mean the construction of improvements on a tract or tracts of land, including the enlargement of a structure or physical changes to the site in an effort to accommodate an intended use.

Easement: an easement shall mean the right or privilege that a person may have in another's land usually for the purpose of installing and/or maintaining utilities or drainage ways.

Engineer or Surveyor: these terms shall denote the duly designated, legally recognized, New Hampshire licensed engineer or surveyor employed by the applicant as may be pertinent to the actual services to be performed in accordance with the provisions set forth in RSA 310-A, as amended.

Enlargement: this term refers to an increase in size or an expansion of any structure or appurtenance, whether said appurtenance exists alone or in service of a structure or other appurtenance. Construction of a new structure appurtenant to an existing structure, but not physically attached to the existing structure, shall also be considered an enlargement of the existing structure.

Hardpan: this term refers to a compact soil layer high in silt and very fine sand, generally low in clay; its permeability is less than 0.6 inches per hour.

Improvement: this term shall refer to site grading, landscaping, street or road construction, and utilities (including water, sewer, electric, gas, storm drainage, and their appurtenances) to be installed or agreed to be installed by the applicant on land to be used for public or private streets and easements or other purposes as are necessary for general development of the site.

Individual waste disposal system: this term refers to any sewage disposal and/or treatment system other than a municipal system or community system.

Individual water supply system: this term refers to any water supply system other than a municipal system or a public water system, which provides potable water.

Lot: this term refers to a piece or parcel occupied or intended to be occupied by a principal building or a group of such buildings and accessory buildings, or utilized for a principal use and uses accessory or incidental to the operation thereof, together with such open spaces as required by these regulations and/or the Town's Zoning Ordinance, and having frontage on a public street.

Seasonal high water table (SHWT): this term refers to the upper limit of the ground water in a soil which becomes seasonally saturated with water.

Street: as set forth in RSA 672:13, street means, relates to and includes street, avenue, boulevard, road, land, alley viaduct, highway, freeway and other ways. The term "streets" shall also apply to areas on any plans designated as streets, roads, lanes, etc.

Subdivision: subdivision means the division of a lot, tract, or parcel (which may include one or more tracts, lots, or parcels) of land into two or more lots, plats, sites, or other divisions of land for the purpose, whether immediate or future, for sale, rent, lease, or building development: in short, any division of land which creates the potential for additional dwelling units or bedrooms. The term includes resubdivision, and when appropriate to the context, relates to the process of subdividing or to the land or territory subdivided. The division of a parcel of land held in common and subsequently divided into parts among several owners shall be deemed a subdivision for the purpose of these regulations, in accordance with RSA 672:14, as amended.

Submission: this term refers to the process of applying to the Board for site plan review. Formal submission is the formal presentation of a site plan to the Board at a public hearing. Submission is a prerequisite for acceptance of a complete application.

## **SECTION VI - PROCEDURE**

### **6.1 FORMAL APPLICATION**

Application Procedures and Fees shall be in accordance with the Town of Newton Planning Board Policies and Procedures Manual, as amended. (Amended January 2008)

## **6.2 CONDITIONAL USE PERMIT (Amended October 2012)**

- A. Projects that fall under Conditional Use Permit authority include the items listed below.
1. Home Based Businesses, as described in the applicable section of the Newton Zoning Ordinance.
  2. Accessory Apartments, as described in the applicable section of the Newton Zoning Ordinance.
  3. Aquifer-Watershed Protection Ordinance Permitted Uses, as described in the applicable section of the Newton Zoning Ordinance.
  4. Shoreland Protection District Conditional Uses, as described in the applicable section of the Newton Zoning Ordinance.
  5. Residential Open Space-Cluster Development, as described in the applicable section of the Newton Zoning Ordinance.
  6. Elderly Housing, as described in the applicable section of the Newton Zoning Ordinance.
  7. Condominium Conversions, as described in the applicable section of the Newton Zoning Ordinance.
  8. Personal Wireless Service Facilities, as described in the applicable section of the Newton Zoning Ordinance.
  9. Small Wind Energy Systems, as described in the applicable section of the Newton Zoning Ordinance.
- B. Application Procedures and Fees shall be in accordance with the Town of Newton Planning Board Policies and Procedures Manual, as amended. (Amended September 2012)

## **SECTION VII - PLAN REQUIREMENTS**

### **7.1 SITE PLAN**

#### **7.1.1 Scope of Review**

Every application for site plan review must incorporate the entire parcel within the review. Not to do so may cause approval of a use or situation which is not in conformance with the zoning ordinance and/or other applicable ordinances and regulations.

#### **7.1.2 Professional Standards**

Site plans shall be prepared, stamped, and signed by a registered Professional Engineer licensed in New Hampshire. This requirement shall apply to all site plans showing roadways, utilities, bridges and culverts, plus drainage and other construction plans. In specific cases, the Board may waive this requirement in accordance with Section X, Waivers.

### 7.1.3 Sheet Size

All plans shall be drawn in ink and be presented on sheet sizes that conform to the requirements of the Rockingham County Registry of Deeds. The Board requests only one sheet plan size is used for preparing all plans in a set. (Amended October 2012)

### 7.1.4 Specific Plan Information - Existing Site Conditions

In order for the Board to comprehensively evaluate a site plan proposal, the applicant is required to show the following information as part of the site plan, unless granted a waiver in accordance with Section X, Waivers.

- A. Location of site, names, and addresses of current owners of record and current abutting land owners. A separate list of current names and addresses of abutters must also be provided.
- B. Name and address of person(s) or firm preparing the plan. Said plan must contain the date of preparation, title, north arrow, scale, legend and zoning district(s). Name and address of person(s) or firm preparing other data and information if different from the preparer of the map. Plans shall also contain a signature block for Board approval.
- C. Surveyed property lines including angles or bearings, distances, monument locations and size of the entire parcel. Said plan must be attested to by a professional surveyor licensed in the State of New Hampshire.
- D. Existing grades and topographic contours at intervals not exceeding two (2) feet with spot elevations where the grade is less than five percent (5%).
- E. The location of existing drainage systems, structures, and drainage easements, if any.
- F. The shape, size, height, location and use of all existing structures on the site and within 200 feet of the site.
- G. Natural features such as streams, marshes, lakes, ponds, rock outcrops, wooded areas, significant trees, and other significant environmental features, including wetland soils.
- H. Man-made features such as, but not limited to, existing roads and structures. The plan shall also indicate which structures are to be retained and which are to be removed or altered.
- I. The size and location of all existing public and private utilities, including off-site utilities to which connection is planned, and any underground storage tanks, abandoned or in use.
- J. A vicinity sketch showing the location of the site in relation to the surrounding public street system, to be shown within a distance of 1,000 feet.
- K. A High Intensity Soil Survey (HISS) of the entire site, or the portion as determined by the Board. Calculations shall be provided and shown on a sheet appropriate to the plan. Such soil survey shall be prepared by a certified soil scientist in accordance with the standards established by the Rockingham County Conservation District. Any cover letters or explanatory data provided by the certified soil scientist shall also be submitted. (Amended May 1999)
- L. Location and description of all existing easements and/or rights of way.



- M. Tax map and parcel number.
- N. Each existing building or manmade structure, including stone fences, shall be shown on the plan and reviewed with the Board for historic significance. Such historic features may be destroyed or removed only with Board approval.

7.1.5 Specific Plan Information - Proposed Site Conditions

- A. Proposed grades and topographic contours at intervals not exceeding two (2) feet with spot elevations where grade is less than five percent (5%).
- B. The location and layout of proposed drainage systems and structures, including elevations for catch basins.
- C. The shape, size, height, and location of all proposed structures, including expansion of existing structures on the site, first floor elevation(s), building elevation(s), and a rendering of the proposed structure(s).
- D. Construction drawings, including, but not limited to, pavement, sidewalks, steps, curbing and drainage structures.
- E. Location and timing patterns of proposed traffic control devices, including painted road indicators, and all signage.
- F. The location, width, curbing and paving of proposed streets, driveways and sidewalks with indication of direction of travel for one-way streets; including the radii of streets, driveways, access ways, and sidewalks within the site and its relationship to the off-site street system.
- G. The location, size and layout of on and off-street parking, including loading zones. The plan shall indicate the calculations used to determine the number of parking spaces required and provided.
- H. The size and location of all proposed public and private utilities, including but not limited to: water lines, sewage facilities, gas lines, power lines, telephone lines, fire hydrants and alarm connection, underground storage tanks, and other utilities.
- I. The location, type and size of all proposed landscaping, screening and open space areas.
- J. The location and type of lighting, including the cone of illumination on the site.
- K. The location, size and exterior design of all proposed signs to be located on the site.
- L. The type and location of all solid waste disposal facilities and accompanying screening.
- M. Location of proposed on-site snow storage.
- N. Location and description of proposed easement(s) and/or rights-of-way.
- O. Note indicating that "all road and drainage work to conform to the standard specifications for construction in the State of New Hampshire".
- P. Location, projection direction, and decibel level of all sound reproduction devices located on the site.

- Q. Any other information the Board may require in order to properly evaluate the proposed development including, but not limited to, the following:
1. Calculations relating to stormwater runoff.
  2. Information on the composition and quantity of wastewater generated.
  3. Information on air, water, or land pollutants discharged.
  4. Estimates of noise generation.
  5. Grading, drainage and erosion and sediment control plan. (See Section 7.2.3 and Appendix A, for requirements for this submission).
  6. Any other plan required under Section 7.2.
  7. Copies of applications for all required state and federal permits.  
(Added January 2008)

## **7.2 DESIGN STANDARDS AND ADDITIONAL PLANS, STUDIES, AND EXHIBITS**

This section (7.2) includes design and construction standards for proposed developments within the Town of Newton. Each subsection addresses concerns regarding development on an issue by issue basis. Each issue is addressed in an integrated fashion. The discussions include: the considerations the Board will take under advisement when reviewing a proposal; design criteria; and the need for, and format of, any additional information that shall be submitted. These standards are considered the minimum standards and may be more stringent if needed to secure the protection of health, safety and general welfare of the citizens of Newton and the region.

These other plans, studies and/or exhibits may be required in an effort to determine the completeness of a site plan review application and its conformity to all applicable ordinances and regulations. The Board may also require the submission of plans, studies, and/or exhibits above and beyond those outlined in 7.1.4 through 7.1.5 as part of their consideration of a complete site plan review. The cost of reviewing such plans and studies shall be paid by the applicant, in accordance with RSA 674:44,V and RSA 676:4, I(g) and 6.1.1, A(1) of these regulations.

### **7.2.1 General Standards for Requirement of Additional Information**

- A. When the Board determines that the impact of the proposal is not adequately addressed by the minimum submission requirements of 7.1.4 and 7.1.5, or when the proposal will impact a sensitive or critical area (concerns include, but are not limited to, neighborhood density, environmental sensitivity, etc.) the Board may require any of the plans, studies, or information exhibits, in this section. Any doubt as to a particular impact shall be resolved in the determination that the impact requires additional information.
- B. These studies must assist the Board in making an informed decision that protects the health, safety and general welfare of the citizens of Newton and the region. Frivolous requests for the purpose of added delay and expense shall not occur.
- C. The submission requirements in this section merely list minimum standards for the most often requested information. This section in no way limits the type of plan, study or exhibit, or the depth of such plan, study, or exhibit required by the Board.

### 7.2.2 Construction Plan

The Board may require the submission of a construction plan when the proposal is of significant size or complexity. The purpose of this plan is to provide detailed information and layout of the improvements (if they are required) to be constructed as part of the site's development. Information shall be provided in accordance with Appendix A, I, paragraphs A through E.

### 7.2.3 Grading, Erosion and Sediment Control and Plan

Developments shall not increase, modify, or alter the normal patterns of off-site drainage, erosion, sedimentation, caused during the development of the site and/or by the eventual development itself. The applicant shall provide for and maintain methods that eliminate any detrimental downstream effect to other property. Developments shall not increase the amount of erosion and sediment in surface waters. For significant or complex developments the Board shall require a plan to address these issues.

The applicant shall submit such plans to the Board for any tract of land being developed where one or more of the following conditions are proposed or present:

- A. A cumulative disturbed area exceeding 20,000 square feet.
- B. Construction of a street, or road.
- C. Disturbed environmentally critical areas.
- D. Standard agricultural and timber harvesting practices are exempt from this regulation.

The Board may waive the requirement for all or part of a grading, erosion and sediment control plan if it determines that a plan is unnecessary because of the size, character, and/or natural condition of a site. All requests for waivers and action thereon shall be made in writing, in accordance with Section X, Waivers.

Description of the design standards, plan requirements, and other relevant criteria can be found in Appendix A, II, of these regulations. The design standards shall apply to all development projects, regardless of size and/or scope.

### 7.2.4 Stormwater Management and Plan

Developments shall not increase, modify, or alter the normal patterns of stormwater drainage caused during the development of the site and/or by the eventual development itself. The applicant shall provide for and maintain methods that eliminate any detrimental downstream effect to other property. For significant or complex developments the Board shall require a plan to address these issues.

- A. The applicant shall submit a Stormwater Management Plan to the Board for any tract of land being developed where one or more of the following conditions are proposed or present:
  - 1. A cumulative disturbed area exceeding one (1) acre.
  - 2. Construction of a street, or road.
  - 3. Disturbed environmentally critical areas.
  - 4. Standard agricultural and timber harvesting practices are exempt from this regulation.

The Board may waive the requirement for all or part of a Stormwater Management Plan if it determines that a plan is unnecessary because of the size, character, and/or natural condition of a site. All requests for waivers and action thereon shall be made in writing, in accordance with Section X, Waivers.

- B. Where it is determined that the additional runoff incidental to the development will overload or significantly increase an existing downstream drainage facility, the Board may require the provision of drainage easements or other improvements (i.e., retention/detention ponds and/or facilities) necessary to alleviate such problems. All required drainage improvements and/or facilities shall be designed to accommodate a 25-year storm event. Drainage calculations shall be prepared in conformance with the guidance document, NH Department of Environmental Services, Stormwater Manual Volume 2: Post-Construction Best Management Practices Selection and Design (December, 2008), as amended.
- C. Description of the design standards, plan requirements, and other relevant criteria can be found in Appendix A, III, of these regulations. The design standards shall apply to all development projects, regardless of size and/or scope.

#### 7.2.5 Roadway, Access and Traffic Standards and Analysis

- A. Roadways and access points. Access to town roads or proposed roads shall meet the requirements set forth in Section XXXIV Access Management of the Town of Newton Zoning Ordinance. (Amended October 2012) Traffic access to the site from town streets shall ensure the safety of vehicles and pedestrians. The design and construction standard for roadways and points of access are as follows:
  - 1. The Board shall approve of the design for a proposed access/egress point onto the public way. Access/egress to town roads or proposed roads shall meet the requirements set forth in Section XXXIV Access Management of the Town of Newton Zoning Ordinance. (Amended October 2012)
  - 2. Driveways and access onto State highways shall be designed in accordance with the NH Department of Transportation's Administrative Rules Tra 302, as amended, prior to final approval of the site plan. These design standards shall also apply to driveways onto local highways, where possible.
  - 3. The Board may require improvement of existing access/egress point(s) in order to provide safe traffic flow onto abutting streets, should increased traffic be generated by the proposed development.
  - 4. Off-site improvements may be required, such as increasing pavement width or adding deceleration lanes, curbing and signaling devices, in order to mitigate hazardous impacts.
  - 5. Traffic circulation, pedestrian access, parking and loading facilities, and emergency access shall be designed and located in a manner which ensures maximum safety on-site.
  - 6. Driveways shall be located in such a manner as not to unduly harm the owners or occupants of neighboring parcels.
  - 7. Private streets serving non-residential developments shall remain in private ownership and the developer shall provide legal instruments to insure their continued maintenance and ownership.

- B. All proposed non-residential developments shall be reviewed by the Board to ascertain that adequate provisions have been made by the owner or his/her agent for traffic safety. To facilitate this review, the applicant may be required to provide a traffic impact analysis when deemed necessary by the Board due to the size, location, or any other traffic generating characteristics of the development. Description of the design standards, plan requirements, and other relevant criteria can be found in Appendix A, IV, of these regulations.

#### 7.2.6 Parking Standards and Design

- A. Parking spaces shall be provided for in accordance with this section and shall not be less than 9 feet wide or less than 18 feet long.
- B. Parking areas and drives shall be paved if public use is intended; however, the Board may waive paving to reduce runoff which cannot be disposed of properly.
- C. Off-street parking areas shall be adequate for, and within a reasonable walking distance of, the buildings and use they are designed to serve.
- D. Access to parking areas shall be designed so as not to obstruct free flow of traffic. There shall be adequate provision for ingress to and egress from all parking spaces to ensure ease of mobility, ample clearance, and safety of vehicles and pedestrians. The width of all aisles providing direct access to individual parking stalls shall be in accordance with the requirements specified below. Only one-way traffic shall be permitted in aisles serving single-row parking spaces placed at an angle other than ninety degrees.

Parking Angle (degrees)	Aisle Width (feet)
45	14
60	18
90	22

- E. At minimum, parking spaces shall be provided as follows:
  - 1. Professional, general office, retail or service uses -- at least one (1) parking space per 300 square feet of gross floor area.
  - 2. Clubs, restaurants, churches, or places of assembly - one (1) parking space per three (3) person capacity.
  - 3. Wholesale and distribution, warehousing and storage, and other enclosed storage uses, manufacturing, light industrial and industrial uses - one (1) parking space per 750 square feet of gross floor area or one (1) parking space per employee on the maximum shift, whichever is greater.

Where a use is not specified above, the regulations' intent is that adequate parking spaces shall be provided for the vehicles of all persons likely to be gathered at the premises at one (1) time. All parking spaces must be on site or assured of perpetual existence by easement.

In site plans of more than one (1) use, the aggregate number of parking spaces shall be apportioned based upon the various uses, with respective areas designated upon the plan.

For handicapped parking requirements, "The Architectural Barrier Free Design Code for the State of New Hampshire - Section 304", as amended, is incorporated by reference herein.

- F. Parking spaces shall be arranged so that cars will not back into a public street.
- G. The minimum grade for parking areas shall be .5%, the maximum grade shall be five percent (5%).
- H. The final design of the parking lot shall be subject to approval of the Board, which may require other standards as special circumstances warrant. Additional design specifications are found in Appendix A, V.

#### 7.2.7 Off-Street Loading

- A. Spaces requirements: for the uses listed below, the following off-street loading space requirements will apply:
  - 1. Retail and service establishments-One space for each 10,000 square feet.
  - 2. Wholesale and manufacturing-

Square footage of building	Number of spaces
5,000-15,000	1
15,001-25,000	2
25,001-35,000	3
35,001-45,000	4
45,001+	4 + (1 per 20,000 over 45,001)

- B. Size requirements: the first loading berth required in each instance shall not be less than 12 (twelve) feet in width, 50 (fifty) feet in length, and 14 (fourteen) feet in height and may occupy all or any part of a required yard, except repaired driveways and internal access roads. However, up to 50% of any additionally required berths may be less than fifty (50) feet in length provided that in no case shall any berth be less than twenty (20) feet in length.

#### 7.2.8 Sidewalks

Sidewalks, where applicable, shall be provided for pedestrian traffic to provide connection between the main entrance of businesses, industries, and parking areas. In the event that pedestrian shoppers or employees are reasonably anticipated, provisions shall be made for the installation of sidewalks running from the street line to the principal building. Sidewalks shall be at least six (6) inches above grade and shall be protected by curbing. Sidewalk designs shall include means for handicapped access.

### 7.2.9 Landscaping Design and Plan

The Town of Newton requires attention to landscaping design in order to protect and preserve the appearance, character, and value of the surrounding neighborhoods by providing a better transition; by improving the compatibility between various land uses in the Town; and by buffering neighboring properties and areas from any adverse effects of site development.

These regulations shall mitigate the appearance and detrimental impact of non-residential uses. Any application of these regulations shall protect the value and provide for quiet enjoyment and nuisance-free use of neighboring properties.

- A. Landscaping and screening must be provided with proper regard to adjacent properties, the public highway and within the site, including interior landscaping of parking areas. The proposed landscape design must be sensitive to any well-executed and maintained adjoining property landscape design.
  - 1. Where landscaping in the open space abuts parking areas, surface ground contours must be bermed or mounded to partially obscure views of the lower portions of parked vehicles.
  - 2. The Board recommends the use of low maintenance planting materials, the incorporation of groundcovers, such as grass or other low-growing groundcovers and that mulch, such as bark chips, be used in limited areas.
  - 3. Landscaping around buildings shall be provided to buffer parking areas, to define entrances, to provide foundation planting, and to soften large expanses of walls or long roof lines.
- B. All outdoor storage areas, loading areas and trash receptacles shall be located or screened and fenced to prevent visibility from public roads, parking areas, or neighboring properties. The manner of waste disposal shall be specified and the plan shall show the location of all waste disposal facilities. The color, style and location of any proposed fencing shall be reviewed and approved by the Board.
- C. Landscaped buffer strips of 50 feet must be provided where a proposed non-residential development abuts residential properties. This buffer shall adequately shield the residential properties from the adverse effects of the non-residential use. When separating two commercial lots the buffer must be 25 feet. This buffer must be 50 feet in width if the non-residential development abuts a Residential Zone (see Sections XXI and XXV of the Newton Zoning Ordinance). No parking shall be located within any part of the buffer zone.

Where appropriate, existing trees and vegetation must be incorporated into the buffer strips or landscaping design. Buffer strips must contain vegetation which will screen the view from adjacent residential property during all seasons. This screening must exclude visual contact between uses and create a strong impression of the separation of spaces. Fencing alone may be considered an acceptable method of screening only if granted a waiver in accordance with Section X, Waivers.
- D. For non-residential land uses, the amount of landscaping required shall be 20% of the entire site or 50% of the gross floor area of the principle structure; whichever is greater.
- E. When deemed appropriate, considering the size and scope of a proposal, a landscaping plan may be required for submittal. Such plan must show locations and types of vegetation to be retained or established.

1. The Board shall indicate its approval of the landscaping plan, as filed, if it complies with the requirements and objectives of this regulation. If disapproved, a list of plan deficiencies and the procedure for filing a revised plan will be given to the applicant.
  2. The Board will also seek an advisory opinion of the Conservation Commission when a landscaping plan is required.
  3. Technical review of any landscaping plan prepared under this regulation may be reviewed by the Town's consultant at the applicant's expense.
- F. Where appropriate, natural vegetation shall be retained as a buffer along environmentally sensitive areas such as watercourses, wetlands, and standing waters, in accordance with sound environmental practices, as described by the Department of Environmental Services. Landscaping along designated Scenic Roadways is controlled by Town Ordinance and shall be disturbed only if permitted through that process.
- G. Pre-existing or non-conforming lots which are the subject of site development shall not be subject to the landscaping requirements described above in subsection C & D. In such cases, a landscaping plan shall be developed which adequately addresses the concerns outlined in the above subsections A & B.

#### 7.2.10 Protection of Natural and Historic Features

- A. Each significant natural feature within the site including large or unusual trees, watercourses, natural stone outcroppings, and other scenic features shall be shown on the plan. Planning Board approval shall be obtained before removal of such features.
- B. Each existing building or manmade structure, including stone fences, shall be shown on the plan and reviewed with the Planning Board for historic significance. Such features will not be destroyed or removed without Planning Board approval.

#### 7.2.11 Bridges

Bridges must be built according to the NH Department of Transportation manual, Standard Specifications for Road and Bridge Construction dated 1990 and as amended. All bridge plans must be approved by the State Engineers prior to construction.

#### 7.2.12 Outdoor Lighting

All outdoor lighting shall be directed and shielded so that no glare will spill out onto abutting residential properties. After 10:00 p.m., or other time as established by the Board, only that amount of light necessary for the security of the premises shall be permitted. Fixtures and locations shall be approved by the Board. In terms of placement and type, all outdoor lighting shall comply with the NH Code for Energy Conservation in New Building Construction, as prepared by the NH Public Utilities Commission, as amended.

#### 7.2.13 Fire Protection

Fire alarms, fire hydrants, and fire ponds shall be provided as specified by the Newton fire department. These items shall be shown on the site plan and installed by the applicant.

#### **Selectmen's Ordinances (Passed March 2005, Added September 2008)**

A certified sprinkler system to be installed in all new commercial and industrial buildings and/or units thereof which have a square foot area



of 5,000 feet or over in accordance with NFPA 13, Installation of Sprinkler Systems.

A certified sprinkler system to be installed in, as defined in the Newton Zoning Ordinance, all new Senior and Elderly Housing Units. The system shall be installed in accordance with NFPA 13R, (Sprinkler Systems in Residential Occupancies up to and including four stories in height) and/or NFPA 13D, (Sprinkler Systems in One and Two Family Dwellings and Manufactured Homes).

7.2.14 Snow Storage

Provisions shall be made for adequate snow storage during the winter months.

7.2.15 Water, Wells, On-site Sewage, and Hydrogeological Studies

A. Water

1. On-site water supply: the provision of an on-site water supply shall conform to criteria of the Drinking Water and Groundwater Bureau of the NH Department of Environmental Services and Board of Selectmen Ordinances.

**Selectmen's Ordinance (Passed March 1987, Added October 2012)**

All portions of a proposed septic system must be designed to be at least 100 feet from all wells on the property and adjacent properties. Any waiver from this regulation must be in writing at the time of submittal of the septic system design for approval.

2. It shall be the responsibility of the applicant to provide adequate information to prove that the site is adequate to permit the installation and operation of both individual on-site water supply and sewage disposal systems.
3. A hydrogeologic study, as described in Appendix A, VII, shall be required for any well with a withdrawal of over 20,000 gallons per day.

B. Sewage

1. No site plan will be approved where the site does not meet the minimum standards imposed by the Subsurface Systems Bureau of the NH Department of Environmental Services, Board of Selectmen Ordinances, and the design standards for sewage systems in Appendix A, VI.
2. Each site proposed for non-residential development shall have at least two test pits, separated by at least fifty (50) feet. The test pits shall establish the existence of a contiguous area of 4,000 square feet, or larger per Env-Ws 1014.01 et seq., suitable as a receiving layer for a leaching system. This area shall be shown on the plan. The Board requires that all test pits be verified by its designated agent.
3. A hydrogeologic study, as described in Appendix A, VII, shall be required for any septic system, or combination of systems, existing or planned, on one parcel, that is(are) designed to accommodate 2,500 gallons per day, or more.

- C. Any development that requires a community well for water must adhere to the following rules (Added September 2008):
1. No water may be piped to any area outside the development.
  2. No water may be trucked off the development.
  3. The quantity of water to be drawn must be approved by the Planning Board and listed on the recorded plan sheets.
  4. All applications for water franchises must appear before the Planning Board and Health Officer for review before application to the State.
  5. All community wells following the above rules shall be listed on the recorded plan sheets.

#### 7.2.16 Utilities

- A. The applicant proposing a non-residential development shall install all electric, telephone, and other utility distribution lines per specifications of the public utilities companies involved, and there shall be provided by the developer such easements as are required for transformer units.

#### 7.2.17 Easements

- A. All easements dedicating rights to the Town of Newton are subject to review and approval by the Board and Town Counsel.
1. Where the topography is such as to make difficult the inclusion of any utilities or other facilities within the road rights-of-way, the site plan shall show the boundaries of the proposed permanent easements over or under private property. Such easements shall not be less than twenty five (25) feet in width and shall have satisfactory access to existing or proposed rights-of-way.
  2. Where a proposed non-residential development is traversed by a watercourse or drainage way, the Board may require a stormwater easement or drainage right-of-way of at least twenty five (25) feet in width.

#### 7.2.18 Noise (Amended August 2008)

In accordance with the Town of Newton Zoning Ordinance, the following standards shall apply for the purpose of regulating noise levels within the Town.

- A. The owner, occupant and/or any person shall not permit the projection of sound or noise which exceeds the limiting noise level set forth in Table 7.2.18, below. This noise shall not extend beyond the border of the parcel where the noise originates.
- B. The issuance of a building permit shall carry an automatic increase in the noise limit to seventy-five (75) DBA for all activities directly involved with the permitted construction for the hours between 7:00a.m. and 8:00p.m. The noise limits for the hours between 8:00p.m. and 7:00a.m. shall remain as specified in Table 7.2.18 below, unless otherwise specified in the site plan.
1. The measurement of sound or noise shall be made with a sound level meter meeting the standards prescribed by the American National Standards Institute.

2. The appropriate methodology shall be used in conjunction with a meter in order to best determine that the maximum permissible sound pressure levels for use districts has not exceeded the limiting noise level set forth in Table 7.2.18.
3. Measurement of sound levels shall be made at the property line of the property on which such noise is generated or perceived, as appropriate, and shall be taken at least four feet from ground level.
4. Compliance with the noise limits is to be maintained at the boundary of the property.
5. Daytime hours shall be between 7:00a.m. and 8:00p.m. Night-time hours shall be between 8:00p.m. and 7:00a.m.

TABLE 7.2.18  
Maximum Permissible Sound Pressure Levels  
(Sound Pressure Level Limits Measured in DB(A)s)

	DAYTIME	NIGHT-TIME
Industrial Uses	70	65
Commercial Uses (Includes professional office structures)	65	55
Residential Uses (Includes multi-family structures)	60	50

#### 7.2.19 Other State, Federal, and Local Requirements

The following State permits may be required as applicable:

- A. NH Department of Environmental Services, Subsurface Systems Bureau septic system design approval.
- B. NH Department of Environmental Services, Wetlands Bureau "Fill and Dredge in Wetlands" Permit (RSA 482-A).
- C. NH Department of Transportation driveway access permit.
- D. NH Department of Environmental Services, Waste Management Division, Underground Storage Tank (UST) Program permit for underground storage tanks as regulated by RSA 146-C.
- E. NH Department of Environmental Services Alteration of Terrain Bureau permit.
- F. Any other State or Federal permits required.

Where the application requires State or Federal permits, the applicant shall provide copies, to the Planning Board, of all correspondence between the applicant and the agency from which the permit is sought. (Amended May 1999)

### 7.2.20 Flood Hazard Areas (Added June 2008)

Non-residential and multi-family development proposals involving land designated as Special Flood Hazard Areas (SFHA) by the National Flood Insurance Program (NFIP) shall be reviewed to determine whether such proposals will be reasonably safe from flooding and shall meet the following requirements.

- A. The Planning Board shall review the proposed development to assure that all necessary permits have been received from those governmental agencies from which approval is required by Federal or State law, including Section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. 1334.
- B. The Planning Board shall require that all proposals for development greater than 50 lots or 5 acres, whichever is the lesser, include Base Flood Elevation (BFE) data within such proposals (i.e. floodplain boundary and 100-year flood elevation).
- C. The Planning Board shall require the applicant to submit sufficient evidence (construction drawings, grading and land treatment plans) so as to allow a determination that:
  - 1. all such proposals are consistent with the need to minimize flood damage;
  - 2. all public utilities and facilities, such as sewer, gas, electrical, and water systems are located and constructed to minimize or eliminate flood damage; and,
  - 3. adequate drainage is provided so as to reduce exposure to flood hazards.

## 7.3 **FINAL APPROVAL** (Amended August 2008)

### 7.3.1 Items Required for Final Approval

The Board will not give final approval to a site plan review application until the following items, if applicable, have been submitted and reviewed by the Board or its designated agent.

- A. Draft language of any protective covenants where the applicant proposes to regulate land use within the development or otherwise protect the proposed development.
- B. Warranty deeds conveying to the Town any streets, right-of-way, and sites dedicated for private use. Such conveyances shall be in fee simple form, free from all encumbrances. These documents shall be reviewed by Town Counsel prior to approval.
- C. As a condition of the Board's approval, the applicant shall execute an agreement which specifies the terms and understandings between the parties with respect to the terms of approval.
- D. For site plan proposals which involve the construction of a roadway, monumentation shall be installed as part of the installation of other required improvements as set forth in these regulations.
- E. Any required performance guarantee, and deposit of inspection fee. These guarantees shall be subject to Town Counsel review as provided in Section IX, Performance and Maintenance Guarantee.
- F. All administrative, engineering review, recording fee and public notice fees.
- G. Any required federal, state, or local approvals or permits.

- H. In order to facilitate the on-going development and maintenance of the Town's files, these regulations require applicants to submit, in addition to a recordable mylar, a digital format of the final plan including but not limited to, subdivision plan, lot line relocation plan or lot line verification plan, that conforms to the Town specifications.

Waiver of the requirement to submit a plan in a digital format may be granted by a two-thirds vote of the full membership present and voting of the Planning Board.

#### Specifications

Electronic data: acceptance of the digital version of the final plan shall be based on the following:

1. Data format shall include digital parcel lines parcel areas, public easements, wetlands delineations, aquifer boundaries, utility easements and when building outlines are surveyed these shall be included as well.
2. Data shall be submitted in .PDF format (Portable Document Format).
3. Files shall be referenced by Newton Tax Map #, Block # and Lot #.
4. If additional plan review should be required; the applicant shall complete outstanding requirements and provide the Town with updated plans.

### **SECTION VIII - GENERAL STANDARDS**

#### **8.1 GENERAL PRINCIPLES**

##### **8.1.1 Overview**

An applicant shall use the following general principles when designing a site plan for land within the Town of Newton. These principles and requirements shall be construed as the minimum requirements. The Board, at its discretion, may require higher standards in individual cases, or may waive certain requirements in accordance with the procedures outlined in these regulations.

##### **8.1.2 General Principles**

An applicant shall observe each and every of the following general principles of site development.

- A. The site plan shall be in harmony and consistent with the Town's Master Plan, Zoning Ordinance, and the Site Plan Regulations.
- B. Site plans shall conform to all regulations of the Board, and other applicable Town by-laws, ordinances, regulations, and statutes of the local, state and federal governments.
- C. Land unsuitable for development due to the presence of poorly, and very poorly drained soils, flood hazards, steep slopes or other conditions constituting a danger to health, safety, or the environment, shall not be approved for development unless the applicant can present satisfactory evidence or data to the Board, establishing the methods which will be used to overcome such conditions and their adequacy. Land with inadequate capacity for sanitary sewage disposal shall not be developed unless connected to a publicly approved private sewage disposal system.

- D. The Board, in its discretion, will not approve such scattered or premature development as would impose danger or injury to the general public health, safety and welfare due to the lack of water supply, drainage, sewage disposal, transportation, or other public services; nor will the Board approve such development which will necessitate an excessive expenditure of public funds for the supply of such services.
- E. If the owner places restrictions on any portion of the site greater than those required by these regulations, the Subdivision Regulations or the Zoning Ordinance, such restrictions or reference thereto may be required to be indicated on the site plan, or the Board may require that restrictive covenants be recorded with the Rockingham County Registry of Deeds in form approved by the Town Attorney.
- F. All site plans shall be reviewed to ensure the protection of environmental quality.
  - 1. All walls, fences, hedges, and plantings shall be located and designed to ensure harmony with adjacent developments, screen parking and loading areas, and conceal storage areas, utility installations and other such features.
  - 2. Dust and erosion shall be prevented through the planting of ground cover or installation of other surfaces.
  - 3. Each significant natural feature within the site including large or unusual trees, watercourses, natural stone outcroppings, and other scenic features shall require Board approval before removal of such features.

The significant natural attributes and major features of the site listed above, and scenic views (both from the site and onto or over the site), shall be retained to the maximum extent feasible taking economics and cost into account.
  - 4. Provisions shall be made for adequate storm and surface water drainage facilities in order to properly drain the site while minimizing downstream flooding.
- G. Appropriate buffers shall be maintained or installed to screen the use from neighboring properties. Landscape treatment shall consist of natural vegetation or features, or ground cover, shrubs, trees as appropriate, or fencing.
- H. Sufficient off street loading space, including off street areas for maneuvering the anticipated trucks or other vehicles, shall be provided.
- I. Access, parking and loading areas shall be constructed so as to minimize dust, erosion, and run-off conditions, that would have a detrimental effect on abutting or neighboring properties. The Board may require paving if appropriate or necessary.
- J. Grading, paving and storm drainage systems, shall be constructed so that development will not result in erosion/sedimentation of streams, or damage to abutting properties and roads.
- K. Residential abutters shall be protected against undue noise, glare, unsightliness, or other nuisances, which are detrimental to property values.
- L. Lighting shall not glare on abutting properties or on public highways or streets.
- M. Adequate pedestrian and bicycle safety and access shall be provided.
- N. Development shall provide for an appropriate opportunity for ground water recharge.

- O. Constructed travel ways shall be of sufficient width to accommodate existing and prospective traffic, and to afford adequate light, air, and access to buildings for firefighting apparatus and other emergency equipment.
- P. Developments shall be generally consistent with the Town's Master Plan.
- Q. All development shall minimize the encroachment of neighboring land uses.
- R. The development of the site shall not change the topography of the land to be developed by the removal of trees, shrubs, soils and rocks, except that which is necessary for the building of the structures and accessory and incidental development as shown on the plan.

## **8.2 OFF-SITE IMPROVEMENTS**

Pursuant to RSA 674:44, IV, the Board may require special improvements on or off-site which it deems reasonably necessary or desirable for the conditions or circumstances relative to the particular site plan review. Any such special requirements shall be stated in writing in the minutes of the Board with the reasons therefore. The Board may require, either that the applicant construct the improvements in whole or in part, or reimburse the municipality or any other party who, at the direction of the municipality, undertakes such improvements. The applicant's responsibility for such improvements is limited to that portion of the cost of the improvements which bears a rational nexus to the needs created by, and special benefits conferred upon, the site, taking into consideration the municipality's ability to pay for such improvements.

## **SECTION IX - PERFORMANCE AND MAINTENANCE GUARANTEE**

### **9.1 POSTING OF PERFORMANCE GUARANTEE**

The Board, under advice from the Town Engineer, shall set the amount of the performance guarantee prior to the final approval of the site plan. The developer shall post such guarantee with the Town prior to the scheduling of a preconstruction meeting and the issuance of any building permits for the site. The guarantee shall cover the estimated cost of constructing and installing all site improvements, including, but not limited to: street work (both public and private roads), drainage facilities, parking and/or loading facilities, landscaping, and other utilities.

The basis for determining the performance guarantee shall be 100% (one hundred) of the costs of all required site improvements, plus any other funds necessary for the completion of ancillary work as conditioned by the Board's approval. The amount shall be reviewed and approved by the Board. Time limitations shall be imposed upon completion of the improvements of the site in accordance with the approval and Section 9.2. Bonding shall not be considered a vesting of rights, nor shall posting of a bond be considered "active and substantial development or building". Failure to commence work on site improvements within the specified time limits will result in a forfeiture of the performance guarantee, and the need to post a new guarantee prior to construction.

Performance Guarantees must be represented in a written agreement with, and acceptable to, the Board, and Town Counsel. This provision insures proper and legally binding agreements and appropriate economic assurance for the protection of the Town of Newton and its citizens.

The Board may accept the following methods of posting a performance guarantee:  
(Amended January 2008)

- A. Cash or a savings passbook held in the name of the Town and deposited with the Town Treasurer.

- B. A letter of credit in an amount and manner acceptable to the Board after consultation and approval by Town Counsel.

The approved bond value shall be re-evaluated at the time of posting, prior to the issuance of any building permits for the site, and at each request for bond reduction. Bond value shall be subject to an inflationary increase at each re-evaluation. (Added January 2008)

## **9.2 RELEASE OF PERFORMANCE GUARANTEE**

Upon inspection of a partial completion of required improvements, the Board may authorize in writing a reduction in the performance guarantee up to an amount equal to the work completed. The Town shall retain sufficient funds for the current cost to complete the remaining improvements as indicated by a qualified contractor's bid estimate approved by the Board, plus a retainer of 20% (twenty) of the original performance guarantee amount which shall be kept until all required improvements have been inspected and accepted by the Town. If the costs for completing the required improvements exceed the amount of performance guarantee held by the Town, additional funds shall be required by the Board, in order to ensure completion before the development proceeds any further. The retainer shall be held until the completion of all required improvements have been inspected and approved by the Board.

Should progress toward the completion of all required improvements fall substantially behind the mutually agreed upon timetable, the Board may obtain a completion cost estimate from:

- A. The developer's contractor; or
- B. A qualified contractor of the Board's choice.

If the estimated completion costs exceed the amount of the performance guarantee posted with the Town, the developer shall post an additional performance guarantee as is necessary to complete the required improvements. The developer shall post such guarantee within thirty (30) days of notice thereof.

The performance guarantee (or balance thereof) shall not be released until the Board (or its agent) has certified completion of the required site improvements in accordance with the approved final plat, and Town Counsel has reviewed and approved all deeds governing land to be used for public purposes, as well as all easement agreements for the site.

Installation of all required improvements shall be completed within two (2) years of the date of the final plan's approval, unless the time frame is extended by mutual consent of the applicant and the Board. If the required improvements are not satisfactorily installed within the mutually agreed upon timetable, the posted performance guarantee shall be forfeited by the applicant.

Prior to the return of the balance of the performance guarantee, the Town's Building Inspector (or designee) shall certify that all site improvements have been installed as per the approved site plan. Furthermore, the developer shall, certify that the "as built" location of all newly installed utilities are in conformance with the approved site plan. Any change in location of the utilities shall require the submission of "as built" plans indicating the actual location of the newly installed utilities.

## **9.3 MAINTENANCE BOND**

For roads proposed to be accepted by the Town, the Board will not release the performance guarantee until a maintenance bond is in place. The Town will require a maintenance guarantee as permitted in Section 9.1, A and B, covering the maintenance of public roads and other public improvements for a period of two (2) years from the date of acceptance as a town-maintained road (Amended May 2012), in an amount no less than 10% and no more than 20% of the improvement costs. If repair or unusual maintenance is needed or additional improvements are required then such costs as are necessary shall be drawn against said guarantee.



**SECTION X - WAIVERS** (Amended August 2008)**10.1 GENERAL**

Where the Board finds that extraordinary hardships, practical difficulties, or unnecessary and unreasonable expense would result from strict compliance with the foregoing regulations or the purposes of these regulations may be served to a greater extent by an alternative proposal, it may approve waivers to 7, 8, and 9 of these regulations. The purpose of granting waivers under provisions of these regulations shall be to insure that an applicant is not unduly burdened as opposed to merely inconvenienced by said regulations. The Board shall not approve any waiver(s) unless a majority of those present and voting shall find that all of the following apply:

- A. The granting of the waiver will not be detrimental to the public safety, health or welfare or injurious to other property and will promote the public interest.
- B. The waiver will not, in any manner, vary the provisions of the Newton Zoning Ordinance, Newton Master Plan, or Official Maps.
- C. Such waiver(s) will substantially secure the objectives, standards and requirements of these regulations.
- D. The Board may grant a waiver from any portion of these regulations when, in the opinion of a majority of the members of the Board present and voting, find that:
  - a) Strict conformity would pose an unnecessary hardship to the applicant; and
  - b) The grant of the waiver would not be contrary to the spirit and intent of the ordinance.

Factors to be considered in whether strict conformity with the regulations would pose an unnecessary hardship may include:

- 1. Topography.
- 2. Site features.
- 3. Geographic location of the property.
- 4. The Board's familiarity with the property, and whether the additional information or will or will not significantly assist the Board in its review.
- 5. Size/magnitude of the project being considered.
- 6. The unreasonable expense of complying with the requirement.
- 7. The Board's practice of granting such a waiver to similarly situated applicants does not constitute precedence for future similar waivers.

**10.2 CONDITIONS**

In approving waivers, the Board may impose such conditions as it deems appropriate to substantially secure the objectives of the standards or requirements of these regulations.

**10.3 PROCEDURES**

A petition for any such waiver shall be submitted in writing by the applicant using the Request for Waiver of Subdivision/Site-Plan Regulations form for Board review. The petition shall state fully the grounds for the waiver and all of the facts relied upon by the applicant.

**SECTION XI - PENALTIES**

The Town will seek enforcement and all penalties statutorily permitted under RSA 676:17, including but not limited to the following:

Per RSA 676:17, any person, firm or corporation violating any of the provisions of these regulations shall, for each violation, upon conviction thereof, pay a fine of not more than one hundred (\$100.00) dollars for each day for each such violation. This fine shall accumulate from the date of conviction, or the date on which the violator receives written notice from the Town of the violation, whichever is earlier. The Town will seek all statutory remedies as permitted under RSA 676:17

In accordance with RSA 676:17, II, the Town shall also seek costs and reasonable attorney's fees in any action to enforce these regulations or in defense of any appeal in which the Town is found to be the prevailing party.

**SECTION XII - VALIDITY****12.1 INTERPRETATION**

In their interpretation and application, the provisions of these regulations shall be held to be the minimum requirements for the promotion of the public health, safety, and general welfare.

**12.2 CONFLICTING PROVISIONS**

Where any section of these regulations conflicts with another section, or with any other local regulations or ordinance, the requirement imposing the greater restriction or higher standard shall apply. In addition, the fact that a requirement under these regulations is less restrictive than a federal or state regulation or statute does not relieve an applicant from compliance with the terms of such regulation or statute, unless specifically authorized by said regulation or statute.

**12.3 SAVING CLAUSE**

If any section, clause, provision or portion of these regulations shall be held to be invalid or unconstitutional by any Court of competent jurisdiction, such holding shall not affect or impair any other section, clause, provision or portion of these regulations.

**SECTION XIII - EFFECTIVE DATE**

These regulations, and amendments, shall take effect upon their passage.

## APPENDIX A

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### I. Construction Plan

#### A. The following items shall be shown on the construction plan:

1. Profiles showing existing and proposed elevations along center lines of all roads.
2. Where a proposed road intersects an existing road, the elevation along the center line of the existing road(s) within (300) three hundred feet of the intersection.
3. Radii of all curves, lengths of tangents, and central angles on all streets.
4. Plans and profiles showing the locations and typical cross-sections of street pavements, including curbs and gutters, sidewalks, drainage easements, rights-of-way, manholes, and catch basins.
5. Location of street trees, street lighting equipment, and street signs.
6. Location, size, and invert elevations of existing and proposed sanitary sewers, storm water drains, and fire hydrants, showing connection to any existing or proposed utility systems and exact location and size of all water, gas or other underground utilities and structures.
7. Location, size, elevation, and other appropriate description of any existing facilities or utilities including, but not limited to, existing streets, septic disposal facilities, sewers, drains, water mains, wells, easements, water bodies, watercourses, and other pertinent features, such as surface drainage areas, swamps, railroads, buildings, at the point of connection to proposed facilities and utilities within the site.
8. The water elevations of adjoining water bodies or watercourses at the date of survey, and the approximate high and low water elevations of such water bodies and watercourses.
9. Topography at the same scale as the existing site conditions plan with a contour interval of two (2) feet, referred to sea level datum. All data provided shall reference the latest applicable U.S. Coast and Geodetic Survey datum and should be noted on the plan.
10. All other applicable provisions and references of the public works specifications.

### II. Drainage, Erosion and Sedimentation Control

- A. General. The purpose of this regulation is to control soil erosion and sedimentation resulting from site construction and development. Subdivision and site plans shall include plans for controlling erosion and sedimentation as provided below.
- B. Design standards - erosion and sedimentation control. The following standards shall be applied in planning for erosion and sedimentation control:
  1. All erosion and sediment control measures in the plan shall meet the design standards and specifications set forth in the NH Department of Environmental Services, Stormwater Manual Volume 3: Erosion and Sediment Controls During Construction (December , 2008), as amended.

2. Whenever practical, natural vegetation shall be retained, protected or supplemented. The stripping of vegetation will be done in a manner that minimizes soil erosion.
3. Appropriate control measures shall be installed prior to removal of vegetation.
4. The area of disturbance shall be kept to a minimum. Disturbed areas remaining idle for more than thirty (30) days shall be stabilized by appropriate measures.
5. Measures shall be taken to control sediment and retain it within the project area. Sediment in runoff water shall be trapped and retained within the project area using approved measures. Very poorly drained soils and water bodies shall be protected from sediment.
6. Off-site surface water and runoff from undisturbed areas shall be carried non-erosively through the project area, or diverted away from disturbed areas where feasible.
7. Naturally occurring streams, channels and wetlands shall be used for conveyance of runoff leaving the project area.
8. All temporary erosion and sediment control measures shall be removed after final site stabilization. Trapped sediment and other disturbed soil areas resulting from the removal of temporary measures shall be permanently stabilized within thirty (30) days.

C. Plan requirements - Erosion and Sediment Control.

1. Preliminary Plan Requirements. A preliminary plan is optional. If submitted, it shall include the following:
  - (a) Site drawing of existing and proposed conditions:
    - (i) Locus map showing property boundaries;
    - (ii) North arrow, scale and date;
    - (iii) Property lines;
    - (iv) Easements;
    - (v) Structures, utilities, roads and other paved areas;
    - (vi) Topographic contours;
    - (vii) Critical areas;
    - (viii) Waterways, bodies of water, drainage patterns, and watershed boundaries;
    - (ix) Vegetation;
    - (x) Soils information from Soil Conservation Service published data or, where High Intensity Soil Maps are used, a conversion to a soil series map done by a Certified Soil Scientist;
    - (xi) Erosion and sediment control measures;
    - (xii) Areas of soil disturbance.
  - (b) Narrative section including discussion of each measure, its purpose, construction sequence, and installation timing as they apply to the site.
2. Final Plan Requirements. The Board shall require each of the following in the final plan unless specifically waived:
  - (a) Site drawing of existing and proposed conditions:
    - (i) Locus map showing property boundaries;
    - (ii) North arrow, scale and date;

- (iii) Property lines;
  - (iv) Structures, roads, utilities, earth stockpiles, equipment storage, and stump disposal;
  - (v) Topographic contours at two-foot intervals;
  - (vi) Extent of 100-year flood plain boundaries if published or determined;
  - (vii) Soils information from Soil Conservation Service published data or, where High Intensity Soil Maps are used, a conversion to a soil series map done by a Certified Soil Scientist;
  - (viii) Easements;
  - (ix) Areas of soil disturbance.
  - (x) Areas of cut and fill
  - (xi) Areas of poorly and/or very poorly drained soils including any portion to be disturbed or filled;
  - (xii) Location of all structural and vegetative erosion and sedimentation control measures;
  - (xiii) Identification of all permanent control measures.
- (b) Narrative section including:
  - (i) Construction schedule;
  - (ii) Earth movement schedule;
  - (iii) Description of temporary and permanent vegetative measures including seeding specifications;
  - (iv) Description of all structural erosion and sedimentation control measures, with detailed drawings of each;
  - (v) Design calculations for all temporary and permanent structural control measures;
  - (vi) A proposed schedule for the inspection and maintenance of all measures;
  - (vii) Identification of all permanent control measures and responsibility for continued maintenance.
  - (viii) Calculations showing volume, peak discharge, and velocity of, present and future runoff.
- D. Responsibility for installation/construction. The applicant shall bear final responsibility for the installation, construction and disposition of all erosion and sediment control measures required by the provisions of this regulation. The Board may require a bond or other security as described in Section IX. Site development shall not begin before the erosion and sediment control plan is approved and the control measures are installed as scheduled in the approved plan.
- E. Maintenance. The applicant shall maintain all soil erosion and sediment control measures, including devices and plantings as specified in the approved plan, in effective working condition. Responsibility for maintenance by subsequent owners of the property on which permanent measures have been installed shall be included in the deed and shall run with the land. If the owner fails to adequately maintain such measures, the Town shall have the authority to perform required maintenance. The cost of such work shall be borne by the owner.
- F. Plan approval and review. The Board shall indicate its approval of the erosion and sediment control plan, as filed, if it complies with the requirements and objectives of this regulation. If disapproved, a list of plan deficiencies and the procedure for filing a revised plan will be given to the applicant.

Technical review of any erosion and sediment control plan prepared under this regulation shall be reviewed by the consulting engineer at the applicant's expense.

G. Inspection. Inspection shall be made by an agent of the Board during development to ensure compliance with the approved plan and that control measures are properly installed or performed and maintained. The costs of such review shall be borne by the applicant.

H. Other Required Permits. In addition to local approval, the following may be required:

RSA 485-A:17 requires a permit from the NH DES Land Resources Management Programs for "...any person proposing to significantly alter the characteristic of the terrain, in such a manner as to impede natural runoff or create an unnatural runoff...". Regulations require this permit for any project involving more than 100,000 contiguous square feet of disturbance or if such activity occurs in or on the border of the surface waters of the State.

### III. Stormwater Management Plan

A. General. The purpose of this plan is to address the effects of the proposed development on the existing stormwater drainage situation and capacity. These plans will often be required in conjunction with an erosion and sedimentation control plan.

B. Plan Requirements. The following standards and requirements shall meet and submitted as part of the stormwater management plans.

1. Calculations of stormwater displacement and flow shall be calculated for a 25 year storm event. All facilities and mediation methods must be designed to accommodate a 25 year storm event.
2. The effects of stormwater drainage on downstream drainage facilities.
3. Methods and provisions to eliminate any overload or significant increase in downstream facilities.
  - (i) Drainage easements.
  - (ii) Retention/detention ponds.
  - (iii) Any other facilities.
4. Appropriate methods to extend and/or connect the proposed drainage system to adjacent land whether or not such land is developed.
5. Appropriate accommodation of potential upstream development.
6. Preservation of natural watercourses within the existing watershed drainage basin.
7. Post-development surface runoff shall be equal to pre-development runoff rates.

C. Plan approval and review. The Board shall indicate its approval of the stormwater management plan, as filed, if it complies with the requirements and objectives of this regulation. If disapproved, a list of plan deficiencies and the procedure for filing a revised plan will be given to the applicant.

Technical review of any stormwater management plan prepared under this regulation shall be reviewed by the consulting engineer at the applicant's expense.

D. Inspection. Inspection shall be made by an agent of the Board during development to ensure compliance with the approved plan and that management measures are properly installed or performed and maintained. The costs of such review shall be borne by the applicant.

#### IV. Traffic Impact Analysis

- A. Traffic interior and exterior circulation, access and egress, adequacy of adjacent streets and intersections, entrances and exits, traffic flow, sight distances, accident statistics, curb cuts, turning lanes, and existing or recommended signalization.
- B. Amount, nature, and impact of traffic generated by the proposed development.
- C. Pedestrian safety, interior and exterior circulation, access and egress.
- D. Off-street parking and loading.
- E. Emergency vehicle access.
- F. The Board may retain the services of a consultant qualified in traffic planning to review the traffic impact analysis and to ensure that adequate provisions are made in the development plan to reduce or eliminate those impacts. The Board may further require, pursuant to RSA 676:4 I(g), that the developer reimburse the Town for reasonable costs of this review. No plan shall be approved until such fees, if applicable, are paid in full.

#### V. Parking Design Standards

- A. Parking areas must be constructed to the following specifications:
  - 1. Loam and/or yielding material must be removed to a depth of no less than 12 (twelve) inches below the final grade.
  - 2. A bank run gravel sub-base of six (6) inches must be applied and compacted, followed by a six (6) inch base of crushed gravel, which is then compacted and rolled true to grade lines with a roller.
  - 3. A one (1) inch binder course and a one (1) inch wearing surface of bituminous concrete and pavement must be installed with a self propelled mechanical spreader and rolled by a tandem roller.
  - 4. The minimum grade for parking areas shall be .5%, and the maximum grade shall be 5%.
  - 5. Parking areas must have adequate landscaping within the site and adjacent to loading facilities.
- B. Regarding the above construction standards for parking areas, the Board may consider waiving the standards and approving an alternative upon review and approval from the Board engineer.

#### VI. On-site Sewage System Design

- A. Regarding the installation of on-site sewage disposal systems, the following design standards shall apply:
  - 1. Subsurface sewage disposal systems under 2,500 gallons/day must be designed by a septic system designer, licensed in the State of NH, or a Professional Engineer. All systems must be designed in accordance with the most recent edition of Subdivision and Individual Sewage Disposal System Design Rules as published by the Subsurface Systems Bureau of the Department of Environmental Services. (Env-Wq 1000).

2. Systems over 2,500 gallons/day shall be designed by a permitted designer who is also a civil or sanitary engineer licensed in the State of New Hampshire. All systems are to be constructed in accordance with the most recent edition of the Subdivision and Individual Sewage Disposal System Design Rules as published by the Subsurface Systems Bureau of the Department of Environmental Services. (Env-Wq 1000).
3. The Town of Newton, in an effort to protect from preventable elements of pollution and any other discharge into the environment, and to protect and improve water quality, incorporates the following requirements (as found in Env-Wq 1000) as the minimum standards for design of on-site sewage systems in Newton. Any modification of these requirements, even if approved by the State shall require a waiver in accordance with Section X, Waivers.

**Table SP-1 - Minimum Standards for Distances in Septic Systems**  
(All distances in feet)

System Element	SHWT	Impermeable Subsoil	Bedrock	Hydric B Soils	Hydric A Soils
Leaching field	4' above	6' above	6' above	75' lateral	75' lateral
Receiving area	N/A	2' above	3' above	75' lateral	75' lateral

4. In addition to the natural permeable soil requirement, fill material may be added when needed to raise the bottom of the leaching area above seasonal high groundwater table or impervious substratum. The fill material shall be a medium to coarse textured sand (0.5 to 1.0mm) with a uniformity coefficient (as determined by a sieve analysis) greater than four (4). In addition to the above, any fill must also meet the requirements of Env-Ws 1014-01 (b-e).

## VII. Hydrogeologic Study

- A. A hydrologic study shall, at a minimum, provide the following:
  1. A hydrologic mapping of local groundwater flow, aquifer characteristics, including but not limited to, elevation, transmissivity, and boundaries.
  2. Existing background water quality.
  3. The location of abutter water supply wells and septic systems.
  4. The location and capacity of the proposed septic system(s).
  5. Estimates of the transport of contaminants from any septic system(s) and of constituent concentrations (i.e. nitrates) at the property boundary and at the abutter's water supplies.
  6. The hydrologic studies shall be performed by qualified hydrologists, hydrogeologists, or other qualified professionals. All water testing is to be performed at EPA approved laboratories.